IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

Crl.Rev.Pet.No. 204 of 1999()

CRA.90/1993 of SESSIONS COURT, KOTTAYAM
CC.180/1989 of CHIEF JUDICIAL MAGISTRATE'S COURT, KOTTAYAM

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REVN. PETITIONER/APPELLANT/FIRST ACCUSED

XAVIER @ BINOY, S/O.XAVIER, OLASSA VEEDU,
NEAR CHANGANACHERRY RAILWAY STATION,
FATHIMAPURAM KARA, PERUNNA KIZHAKKU
VILLAGE, CHANGANACHERRY.

BY ADV. SRI.T.I.ABDUL SALAM

RESPONDENT/RESPONDENT/COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR MR.P.RAVINDRA BABU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K. BALI, C.J.

Crl.R.P.No.204 of 1999

Dated, this the 22nd day of November, 2006

ORDER

V.K.Bali,C.J.(Oral)

The petitioner along with his co-accused (A2 and A3) was tried for offence under Section 394 read with Section 34 of the Indian Penal Code and petitioner was sentenced to undergo rigorous imprisonment for two years whereas A2 and A3 were sentenced to undergo rigorous imprisonment for one year, vide order dated 2nd April, 1993 passed by the Chief Judicial Magistrate, Kottayam. The appeal preferred against the order aforesaid was dismissed by the learned Sessions Judge, Kottayam vide order dated 20th June, 1998. It is against these two

orders that the present revision has been filed by the petitioner.

2. Learned counsel appearing for the petitioner without joining issues on the merits of the case contends that the occurrence pertains to the year 1989 and in the manner aforesaid the petitioner has already undergone agony of a protracted trial

spanned over a period of more than 17 years and at this distance of time he may not be sent to serve a jail term and the sentence may be converted into fine.

3. The contention of the learned counsel for the petitioner for convicting the petitioner only to pay a fine cannot be accepted in the peculiar facts and circumstances of the case. However, considering the fact that the occurrence had taken place in the year 1989 the sentence can be reduced.

4. In totality of the facts and circumstances of the case, this Court is of the view that interests of justice will be served if while maintaining the order of conviction against the petitioner the sentence is reduced to rigorous imprisonment for a period of six months. Ordered accordingly.

Revision petition is disposed of accordingly.

V.K. BALI,
CHIEF JUSTICE.

vns